

STATINTL

Approved For Release 2004/11/01 : CIA-RDP75-00793R000300150009-2
Mr. Colby:

[redacted] asked that I pass you the following message: 'Jim Calloway, of the Senate Appropriations Committee, wanted to be sure that Senator McClellan's message got through to you that, when the Holtzman/Kennedy amendment came up yesterday and he (McClellan) accepted it, he had taken soundings the night before and found there was no way he could beat the amendment down, as it had too much popular appeal, and it was his judgment it would not hurt the Agency, and he put a statement in the Record (which OLC will send us) -- he wanted to protect the Agency but he did not feel it was detrimental to the Agency as such and there was no way he could beat it anyway.'

Barbara
29 Jun 73

cc: sec 7/2/73

MEMORANDUM FOR: <i>OLC</i>	Executive Registry <i>73-3642</i>
<i>As I understand it, this restricts us only from support to to & thru LEAA. Could you examine & circulate a formal interpretation?</i>	
(DATE) _____	

FORM NO. 101 REPLACES FORM 10-1012 29 JUN 1973
1 AUG 54 WHICH MAY BE USED.

25X1A

NOTES ATTACHED TO OLC 73-0731

Approved For Release 2004/11/01 : CIA-RDP75-00793R000300150009-2 OGC Has Reviewed

OLC 73-0731

Holtzman

19 June 1973

MEMORANDUM FOR: Deputy Director for Operations
Deputy Director for Management and Services
General Counsel

SUBJECT: H.R. 8152 - Amendment to Title I of the Omnibus
Crime Control and Safe Streets Act of 1968

1. Attached for your information is an excerpt from yesterday's Congressional Record covering House approval of an amendment which is directed at CIA. The basic legislation (H.R. 8152) amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968. The floor amendment was not considered in committee and was offered on 18 June by Miss Holtzman. Its effect is to take away the authority of the Law Enforcement Assistance Administration to use the available services, equipment, personnel, and facilities of CIA in carrying out the Administration's functions under the Act.

2. The legal effect of the Holtzman amendment falls somewhat short of the colloquy which appears to have been prepared with a broader bill in mind (H.R. 8432). The Koch bill would cut off any direct or indirect CIA assistance to State or local government law enforcement activities and thereby prohibit communication of foreign intelligence information through the FBI to local government units on narcotics, terrorist bomb threats, etc. The Koch bill has been referred to House Armed Services Committee since it is in the form of an amendment to the National Security Act of 1947. We are currently drafting an Agency position on the bill for submission to Chairman Hebert.

3. H.R. 8152 passed the House yesterday and should be referred to the Senate Judiciary Committee shortly. Suggestions for an Agency position to be taken with the Senate Judiciary Committee is herewith requested on a priority basis.



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under the bill's language, any judge worth his salt would throw the case out so fast it would make your head swim.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KEATING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RODINO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 227, noes 162, present 1, not voting 43 as follows:

[Roll No. 35]

AYES—227

Abdnor	Goldwater	Pritchard
Andrews, N.C.	Goodling	Rohrbaugh
Andrews, N. Dak.	Green, Oreg.	Walters
Archer	Gross	Walters
Arends	Grover	Walters
Armstrong	Gubser	Walters
Bafalis	Gunter	Walters
Baker	Guyer	Walters
Beard	Haley	Walters
Bell	Hammer	Walters
Bevill	schmidt	Walters
Bowen	Hansen, Idaho	Walters
Bray	Harsha	Walters
Breaux	Harvey	Walters
Brinkley	Hastings	Walters
Broomfield	Hébert	Walters
Brown	Heinz	Walters
Brown, Mich.	Henderson	Walters
Brown, Ohio	Hillis	Walters
Broyhill, N.Y.	Hinschaw	Walters
Broyhill, V.	Hogan	Walters
Buchanan	Holt	Walters
Burgener	Horton	Walters
Burke, Fla.	Hosmer	Walters
Burleson, Tex.	Huber	Walters
Butler	Hudnut	Walters
Byron	Hunt	Walters
Camp	Hutchinson	Walters
Cassey, Tex.	Ichord	Walters
Cederberg	Jarman	Walters
Chamberlain	Johnson, Colo.	Walters
Chappell	Johnson, Pa.	Walters
Clancy	Jones, N.C.	Walters
Clark	Keating	Walters
Clausen,	Kemp	Walters
Don H.	Ketchum	Walters
Clawson, Del.	Kuykendall	Walters
Cleveland	Landrum	Walters
Cohen	Latta	Walters
Collier	Lent	Walters
Collins, Tex.	Lott	Walters
Conable	Lujan	Walters
Conlan	McClary	Walters
Cotter	McCollister	Walters
Crane	McDade	Walters
Daniel, Dan	McEwen	Walters
Daniel, Robt.	McKinney	Walters
W. Jr.	Madigan	Walters
Davis, Ga.	Mahon	Walters
Davis, Wis.	Mallory	Walters
Delaney	Maraziti	Walters
Dellenback	Martin, Nebr.	Walters
Dennis	Martin, N.C.	Walters
Derwinski	Mathis, Ga.	Walters
Devine	Mayne	Walters
Dickinson	Mazzoli	Walters
Dorn	Michel	Walters
Downing	Milford	Walters
Dulski	Miller	Walters
Duncan	Mitchell, N.Y.	Walters
du Pont	Mizell	Walters
Erlenborn	Montgomery	Walters
Eshleman	Moorhead,	Walters
Findley	Calif.	Walters
Fish	Myers	Walters
Ford, Gerald R.	Nelsen	Walters
Forsythe	Nichols	Walters
Fountain	O'Brien	Walters
Frenzel	Parris	Walters
Frey	Passman	Walters
Froehlich	Pettis	Walters
Fulton	Peyser	Walters
Fuqua	Pickle	Walters
Gettys	Pike	Walters
Gilman	Powell, Ohio	Walters
Ginn	Preyer	Walters
	Price, Tex.	Walters

NOES—162

Abzug	Gibbons	Natcher
Addabbo	Gonzalez	Nedzi
Alexander	Grasso	Obey
Anderson,	Gray	O'Hara
Calif.	Green, Pa.	Patman
Anderson, Ill.	Griffiths	Patten
Annunzio	Gude	Pepper
Ashley	Hamilton	Perkins
Aspin	Hanley	Podell
Barrett	Hanna	Price, Ill.
Bennett	Hansen, Wash.	Rangel
Bergland	Harrington	Rees
Blaggi	Hays	Reid
Blester	Hechler, W. Va.	Reuss
Bingham	Heckler, Mass.	Rodino
Boggs	Helstoski	Roe
Boland	Hicks	Roncallo, Wyo.
Bolling	Holifield	Rooney, Pa.
Brademas	Holtzman	Rosenthal
Breckinridge	Howard	Rostenkowski
Brooks	Hungate	Roush
Brown, Calif.	Johnson, Calif.	Roy
Burke, Mass.	Jones, Ala.	Roybal
Burlison, Mo.	Jones, Okla.	Sarbanes
Burton	Jones, Tenn.	Selberling
Carey, N.Y.	Jordan	Sisk
Carney, Ohio	Karh	Slack
Collins, Ill.	Kastenmeier	Smith, Iowa
Conte	Kazen	Staggers
Conyers	Kluczynski	Stanton,
Corman	Koch	James V.
Coughlin	Kyros	Stark
Cronin	Leggett	Stokes
Daniels,	Lehman	Stratton
Dominick V.	Long, La.	Stuckey
de la Garza	McCloskey	Studds
Delums	McCormack	Symington
Denholm	McFall	Thornton
Dent	McKay	Udall
Diggs	McSpadden	Ullman
Dingell	Macdonald	Vanik
Donohue	Madden	Vigorito
Edman	Mann	Waldie
Edwards, Calif.	Matsunaga	Whalen
Ellberg	Meeds	Wilson,
Esch	Meicher	Charles H.,
Evans, Colo.	Metcalfe	Calif.
Evins, Tenn.	Mezvisky	Wilson,
Fascella	Minish	Charles, Tex.
Flood	Mink	Wolff
Flowers	Mitchell, Md.	Wyatt
Foley	Moakley	Yates
Ford	Molohan	Yatron
William I.	Moorhead, Pa.	Young, Ga.
Fraser	Morgan	Zablocki
Gaydos	Murphy, Ill.	
	Murphy, N.Y.	

PRESENT—1

NOT VOTING—43

Adams	Fish	O'Neill
Ashbrook	Flynt	Owens
Badillo	Frelinghuysen	Quillen
Blackburn	Hawkins	Rarick
Blatnik	King	Riegle
Brasco	Landgrebe	Rooney, N.Y.
Burke, Calif.	Litton	Ruppe
Carter	Long, Md.	Ryan
Chisholm	Mailliard	Schroeder
Clay	Mathias, Calif.	Thompson, N.J.
Cochran	Mills, Ark.	Van Deeren
Culver	Minshall, Ohio	Wilkins
Danielson	Mosher	Wilson, Bob
Davis, S.C.	Moss	
Edwards, Ala.	Nix	

So the amendment was agreed to.
The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MISS HOLTZMAN

Miss HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Miss HOLTZMAN: On page 36, line 7, insert immediately after "Federal Government" the following: "not including the Central Intelligence Agency."

(Miss HOLTZMAN asked and was given permission to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Chairman, my amendment is very simple. It would prohibit the Central Intelligence Agency from engaging in local law enforcement

activities under the auspices of the Omnibus Crime Control and Safe Streets Act.

As we all know, the CIA is not authorized to engage in domestic law enforcement activities under the statute creating it—the National Security Act of 1947.

Nonetheless, the CIA has been training and working with local law enforcement agencies throughout the country—citing as its authority to do so section 508 of title I of the Omnibus Crime Control and Safe Streets Act which created LEAA. This provision is almost identical to section 508 of the bill we are considering today.

The domestic activity of the CIA, of which I learned only last week, was not brought to the attention of the Committee on the Judiciary during its deliberations on H.R. 8152. It is clear to me, however, that the House Judiciary Committee never contemplated that section 508 would permit the CIA to engage in such activities.

The activities of the Central Intelligence Agency under LEAA have been documented by the General Accounting Office, by letters from James R. Schlesinger, Jr., former Director of the CIA, and by other Members of this House. I should also point out that it was through the efforts of my distinguished colleague from New York (Mr. Koch) that the involvement of the CIA in these activities came to the attention of the House in the first place.

Under the color of the Safe Streets Act the CIA has given the following kind of aid to about a dozen city and county police agencies throughout the country: instruction in record handling, clandestine photography, surveillance of individuals, detection and identification of metal and explosive devices and analysis of foreign intelligence data. I might add it has carried out these activities without having been requested to do so by the Administrator of LEAA as section 508 of both the existing legislation and the bill we are considering today requires. In New York City alone 14 policemen were given briefings on the analysis and processing of foreign intelligence information.

An even more troublesome problem is that although the CIA has been apparently restricting itself to training activities and technical assistance under title I of the 1968 act, the language of that statute as well as the provision before us is sweeping enough to authorize the CIA to use its own personnel in the actual performance of local law enforcement activities.

It is perfectly clear that whatever activities the CIA has performed or may perform in connection with local law enforcement efforts, such activities could more appropriately be carried out by other Federal agencies such as the FBI.

For this reason, the Justice Department has advised me that excluding the CIA from participation in local law enforcement activities would not jeopardize the functioning of local law enforcement agencies or the functioning of LEAA.

There is no need for the CIA involvement in local law enforcement activities and to permit such involvement

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creates dangers of enormous proportions to this country. Recent events, such as the burglary of the office of Daniel Ellsberg's psychiatrist, demonstrate that CIA involvement in domestic law enforcement activities can abridge constitutional rights and jeopardize the integrity of the CIA itself. In fact, it is significant that the CIA involvement in the Ellsberg matter came in the form of "technical assistance"—the same kind of assistance supposedly provided by the CIA to local law enforcement agencies.

My amendment would prevent such dangers from happening by limiting the activities of the CIA to areas of its legitimate concern and preventing it from diverting its resources and attention to local law enforcement.

I therefore respectfully urge the adoption of this amendment which is wholly in keeping with the spirit and purpose of the Omnibus Crime Control and Safe Streets Act, and prevents CIA involvement in local law enforcement.

Mr. RODINO. Mr. Chairman, will the gentlewoman yield?

Miss HOLTZMAN. I am happy to yield to the chairman, the distinguished gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I would like to state that the amendment offered by the gentlewoman from New York (Miss Holtzman) is one that I think is in keeping with the true purpose of the act, and that it remedies a deficiency that has been overlooked. I certainly will accept the amendment offered by the gentlewoman from New York.

Miss HOLTZMAN. I thank the gentleman.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Miss HOLTZMAN. I will be happy to yield to the distinguished ranking minority member on the committee.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, certainly the CIA has no function in our domestic law enforcement. If the CIA has been engaging in such activities, citing any part of the LEAA law as their authority, that matter should be clarified. I can see absolutely no harm in the amendment offered by the gentlewoman from New York. I think that it clarifies the law. Therefore, Mr. Chairman, I would indicate my support for the amendment offered by the gentlewoman from New York (Miss Holtzman).

Miss HOLTZMAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Miss Holtzman).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Flowers: On page 42, amend section 518 by adding the following new subsection after line 22:

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the

availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program."

And on line 23 redesignate subsection (b) as subsection (c).

Mr. FLOWERS. Mr. Chairman, this is new language insofar as this bill is concerned. However, it is not new language insofar as the present Law Enforcement Assistance Administration law is concerned. It is a part of the current law. I would like to make that clear to my colleagues.

This is not new to the LEAA law. It is in the current law that was enacted by the Congress in 1968.

Now, how did we get into position we are in now, that this language is not a part of the committee bill?

First of all, it was left out of the administration bill which was sent up to us. It was left out partly, I think, because the administration bill was a special revenue-sharing bill. It did not contain the categorical and bloc grant approach that we have now in the current law and that we have in the committee bill that is before this Chamber.

Mr. Chairman, what the committee did with the administration bill primarily was to change this section by adding what had been proposed by various civil rights groups, sections (b)(1), (b)(2), and (b)(3) to the bill. They are found following the part that I propose to amend and I have no objection to these provisions. All testimony, and the consensus of the committee, tells us that this vastly strengthens the civil rights provisions of the LEAA law.

I say this, however, Mr. Chairman, I fear that if at the same time we are strengthening these civil rights provisions we take out this very clear prohibition on the Law Enforcement Assistance Administration, a prohibition which merely states that:

Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance.

If on the one and we vastly strengthen the civil rights provisions, but on the other hand we are taking out what is part of the current law, I say that there can be no other reception for this by the administration, or by any group of persons around the country, than that we intend to require quotas or percentage ratios, and we ought to condition grants upon the adoption of such a system by a prospective grantee.

I say, Mr. Chairman, by taking this out of the law—and all I propose to do is to keep what is in the current law—we would be opening the door to interference of all kinds—interference of the administration all the way down to the local police or local sheriff's de-

partment in every district around this Nation.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I do not know if my hearing is failing me. Did the gentleman say this amendment strengthens the civil rights provisions of LEAA?

Mr. FLOWERS. I did not say that.

Mr. CONYERS. I did not think the gentleman did.

Mr. FLOWERS. I said that the other amendments we have added to this section vastly strengthened the civil rights provisions, and I said I supported those amendments.

Mr. CONYERS. Then if it does not strengthen the civil rights provisions in LEAA, could I have the temerity to ask the gentleman, does it weaken the present provisions?

Mr. FLOWERS. I do not think it is incompatible with the strengthening provisions of the bill. I do not think it either weakens or strengthens. It merely states what it says it states insofar as the current law is concerned.

Mr. Chairman, I say that this is a very simple matter that ought to be included in these amendments and the further extension of this act, and I ask my colleagues in the House to support the amendment.

Miss JORDAN. Mr. Chairman, I rise in opposition to the amendment.

(Miss JORDAN asked and was given permission to revise and extend her remarks.)

Miss JORDAN. Mr. Chairman, the gentleman from Alabama is absolutely correct. His amendment neither strengthens nor weakens the civil rights enforcement provisions in this legislation. It does confuse the civil rights enforcement provisions in this legislation.

Let us understand that the antiquota provision in current law, but removal of that provision from the law was recommended not by the NAACP, nor by the Urban League; not by any social critics, but by the administration headed by the President, Mr. Nixon.

I ask the Members is this present administration a pro-racial quota administration?

I would suggest that the fact the Nixon administration itself recommends that we take this quota provision out of the law is proof that we now have a provision in the bill which will strengthen civil rights enforcement, a provision in the bill which will not say we cut off the funds if they simply discriminate, but that this Law Enforcement Assistance Administration must adhere to the provisions of Title 6 of the Civil Rights Act of 1964, that before any funds are denied any agency or entity in terms of the charge they have discriminated must be entitled to a hearing.

The Governor of the State is the first one who must make the effort to resolve any conflict which will exist. Negotiation, all is provided for.

Because we have the provision in the

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higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement and criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

"(2) education and training of faculty members;

"(3) strengthening the law enforcement and criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for grants not exceeding \$50 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement and criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

"Sec. 407. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

"PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

"Sec. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

"Sec. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

"Sec. 453. The Administration is authorized to make a grant under this part to a State planning agency or agencies incorporated in the comprehensive State plan—

"(1) sets forth a comprehensive statewide program for the construction, acquisition, or

renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

"(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

"(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

"(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and post adjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

"(5) provides for advanced techniques in the design of institutions and facilities;

"(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

"(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

"(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation;

"(9) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11), and (12) of section 303 of this title.

"Sec. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

"Sec. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

"(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to 90 per centum of the cost of the program or project for which such grant is made. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government. No funds awarded under this part may be used for land acquisition.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.

"Sec. 501. The Administration is authorized, after appropriate consultation with representatives of States and units of general

local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

"Sec. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

"Sec. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

"Sec. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

"Sec. 505. Section 5314 of title 5, United States Code, is amended by adding at the end thereof—

"(55) Administrator of Law Enforcement Assistance.

"Sec. 506. Section 5315 of title 5, United States Code, is amended by adding at the end thereof—

"(90) Associate Administrator of Law Enforcement Assistance.

"Sec. 507. Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.

"Sec. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

"Sec. 509. Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with—

"(a) the provisions of this title;

"(b) regulations promulgated by the Administration under this title; or

"(c) a plan or application submitted in accordance with the provisions of this title; the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

"Sec. 510. (a) In carrying out the functions vested by this title in the Administration, the determination, findings, and conclusions of the Administration shall be upon all applicants, except as hereafter provided.

"(b) If the application has been rejected or an applicant has been denied a grant or has had a grant or any portion of a

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is not a final answer to the problems raised by the collection and dissemination of criminal history information. It is enormously complex. It is difficult. It is a sensitive issue and problem. There are competing issues in this area. But this is a first step. I think it is a step which is responsible and one which can be implemented immediately.

I hope the amendment will be accepted. Mr. MATHIAS. I thank the Senator. I think it is very useful to make clear the continuing interest of the Senate in the subject.

Mr. KENNEDY. Mr. President, I move to modify my amendment, to accept the McClellan amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, and it is so modified.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time on both the amendment to the amendment which has been accepted and on the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts, as modified.

The amendment, as modified, was agreed to.

Mr. HRUSKA. Mr. President, I should like to make this comment with respect to the amendment which has just been agreed to. I support the amendment. It contains certain features of a bill, S. 2456, which was considered in the 92d Congress by the Committee on the Judiciary. The language in this amendment is not dispositive of the entire problem, but additional legislation will be forthcoming soon on that subject, and it will supplement and complement this measure.

AMENDMENT NO. 275

Mr. KENNEDY. Mr. President, I call up my amendment No. 275.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 37, line 8 immediately after "Federal Government" insert a comma, and the following: "not including the Central Intelligence Agency".

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Bernadette Fritschie be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the thrust of this amendment is to eliminate the possibility of the Central Intelligence Agency's relying upon the Law Enforcement Assistance Act and its provisions for in any way allowing them to be involved in the training of law enforcement personnel here in the United States.

The reasons for this amendment came about as a result of a newspaper story that appeared in the *Washington Post* which indicated that the CIA had been involved in training law enforcement personnel.

On December 17, 1972, the New York Times reported that 14 New York policemen received training from the CIA in September in the handling of "large amounts of information." The Times quoted a CIA spokesman as acknowledging that "there have been a number of occasions when similar courtesies have been extended to police officers from different cities around the country."

The General Accounting Office, in investigating the allegations made in the news story, determined that the CIA had been involved in training "within the last 2 years less than 50 police officers from a total of about a dozen city and county police forces." The GAO found that instruction was given "in such techniques as record handling, clandestine photography, surveillance of individuals, and detection and identification of metal and explosive devices."

In response to an inquiry concerning these activities from a House committee chairman, the CIA's legislative counsel replied on January 29 of this year that authority for these activities could be found in the Omnibus Crime Act, in the LEA title. The CIA admitted that the National Security Act provided that "The Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions," but asserted that LEA legislation declared a sense of Congress that the Federal Government assist State and local governments in strengthening law enforcement and specified that LEAA was authorized to use services of other agencies of the Federal Government to carry out its function.

I ask unanimous consent that the letter from Mr. Maury to Congressman KOCH be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., January 29, 1973.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter to Mr. Helms of 28 December 1972, regarding a New York Times story describing some briefings which the Central Intelligence Agency has provided to the New York Police Department, and to your request during our telephone conversation on the same subject on 23 January 1973.

Regarding the first question in your letter, I do not have a precise figure but I can assure you that less than fifty police officers all told from a total of about a dozen city and county police forces have received some kind of Agency briefing within the past two years.

These briefings have covered a variety of subjects such as the procedures for the processing, analyzing, filing and retrieving information, security devices and procedures, and metal and explosives detection techniques.

These briefings have been provided at no cost to the recipients. Since they have been accomplished merely by making available, insofar as their other duties permit, qualified Agency experts and instructors the cost to the Agency is minimal.

All of these briefings have been conducted in response to the requests of the various recipients. The Agency intends to continue to respond to such requests on matters within its competence and authority, and to the extent possible without interfering with the

Regarding the Agency's authority to conduct such briefings, the National Security Act of 1947 (P.L. 80-253, as amended) spe-

cifically provides that "the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions." We do not consider that the activities in question violate the letter or spirit of these restrictions. In our judgment, they are entirely consistent with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 42 U.S.C.A. 3701 et seq.). In enacting that law it was the declared policy and purpose of Congress "to assist State and local governments in strengthening and improving law enforcement at every level by national assistance" and to "... encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals" (42 U.S.C.A. 3701). By the same law Congress also authorized the Law Enforcement Assistance Administration to use available services, equipment, personnel and facilities of the Department of Justice and of "other civilian or military agencies and instrumentalities" of the Federal Government to carry out its function (42 U.S.C.A. 3756).

The identities of the individual police forces which have attended these briefings have, by mutual agreement, been kept confidential and I would therefore appreciate your treating the information I gave you in our conversation regarding these identities accordingly.

I trust the foregoing information is responsive to your interests, and I will be glad to discuss the matter with you further if you so desire.

Sincerely,

JOHN M. MAURY,
Legislative Counsel.

Mr. KENNEDY. This amendment would make it clear that Congress does not approve of the CIA's involvement in domestic training activities and that the LEA statute will not provide authority for such activities.

I think the Law Enforcement Assistance Act should be the authority for providing the training and providing of information and support for training of police officials in this country. But I do not believe there is any room for the Central Intelligence Agency to be involved in this kind of activity. I think this would clarify it once and for all so that the CIA would not be involved in the training of any law enforcement people in this country. With this amendment we would make that our intention clear.

Mr. McCLELLAN. Mr. President, I yield myself 1 minute.

I do not think that acting on this amendment would unduly reflect on the CIA and its basic activities in any way.

Under the law as written now, the LEAA has a right to call on any agency of Government for cooperation and assistance. I doubt they have been guilty of improprieties up to now, but in view of the situation I think it is very well that the CIA be restricted to its statutory function defined by the statute.

I have no objection to the amendment and I am prepared to accept it.

I yield back the remainder of my time, unless there is some objection.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I thank the manager of the bill, the Senator from

The So-Called Holtzman Amendment

An amendment introduced by Representative Elizabeth Holtzman (D., N.Y.), and passed by the House of Representatives in H.R. 8152-- Amending Title I of the Omnibus Crime Control and Safe Streets Act of 1968--is, in effect, a reaction to publicity precipitated as a result of Central Intelligence Agency assistance to a number of domestic law enforcement organizations. The assistance given was in the form of briefings on a variety of subjects such as the procedures for the processing, analyzing, filing, and retrieving of information, security devices and procedures, and metal and explosives detection techniques. These briefings were given in response to requests from the various recipients.

In responding to this criticism--on the ground that it was a violation of the National Security Act provision that "the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions:"-- the Agency stated that it did not consider that the activities in question violated either the letter or the spirit of that restriction. Furthermore, in the Agency's judgment, they were entirely consistent with the provisions of the Omnibus Crime Control and Safe Streets Act.

In enacting that law it was a declared policy and purpose of Congress "to assist State and local governments in strengthening and improving law enforcement at every level by national assistance" and to ". . . encourage

research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals" (42 USCA 3701). By the same law Congress also authorized the Law Enforcement Assistance Administration to use available services, equipment, personnel and facilities of the Department of Justice and of "other civilian or military agencies and instrumentalities" of the Federal Government to carry out its functions (42 USCA 3756).

Notwithstanding this, the Director of Central Intelligence upon review of these activities has directed that such activities be undertaken in the future only in the most compelling circumstances and with his personal approval. He added that the Agency would, of course, continue to comply with applicable laws and regulations regarding coordination with other Federal agencies.

We believe it would be unwise to place a restriction in the law which would preclude the Central Intelligence Agency from ever cooperating with the Law Enforcement Assistance Administration under any circumstance no matter how compelling. The Agency does not object to this legislation from the standpoint of its own activities, since it in no way impairs the discharge of its foreign intelligence responsibilities. However, we believe that denying any law enforcement organization access to any information which might be useful to that organization under any circumstance in combating crime and in attempting to make the streets of the United States safe is a mistake. The

CIA Subcommittee(s) have this matter under current consideration. It is our view, in accordance with the philosophy expressed by Mr. Schlesinger, that a decision on a matter of this sort should be made on the basis of a considered judgment by senior officials of the Government. Furthermore, if any restrictions are to be established we feel that these restrictions should be a matter of internal regulation and not a matter of flat unyielding statutory prohibition. For this reason we oppose any amendment which would preclude CIA cooperation with the LEAA under any and all conceivable circumstances.